

AMENDED IN SENATE JULY 18, 2001

AMENDED IN SENATE JUNE 14, 2001

AMENDED IN ASSEMBLY MAY 17, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1616

Introduced by Assembly Member Wright
(Coauthor: Assembly Member Goldberg)
(Coauthor: Senator Ortiz)

February 23, 2001

An act to amend Sections 2230.5, 2960.05, 3750.51, 4982.05, and 4992.31 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, as amended, Wright. Healing arts: disciplinary actions.

Existing law provides for disciplinary action to be taken against licensed health professionals, psychologists, marriage, family and child counselors, *respiratory care practitioners*, and clinical social workers, including revocation, suspension, limitation, or conditioning of a license, for certain conduct. A hearing to determine whether a license shall be revoked, suspended, limited, or conditioned is initiated by the filing of an accusation in an administrative adjudication action. The accusation is required to be filed within a certain time period, with specified exceptions.

This bill would establish a different time limit for an accusation alleging sexual misconduct by the licensee. The bill would also toll the limitations period (1) where *material evidence necessary for prosecuting or determining whether a disciplinary action would be*

appropriate is unavailable to the board due to an ongoing criminal investigation and (2) in the case of an accusation against a licensed health professional, where the alleged act or omission involves a minor, until the minor reaches the age of majority, in the case of an accusation against a licensed health professional.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2230.5 of the Business and Professions
2 Code is amended to read:
3 2230.5. (a) Except as provided in subdivisions (b), (c), and
4 (e), any accusation filed against a licensee pursuant to Section
5 11503 of the Government Code shall be filed within three years
6 after the board, or a division thereof, discovers the act or omission
7 alleged as the ground for disciplinary action, or within seven years
8 after the act or omission alleged as the ground for disciplinary
9 action occurs, whichever occurs first.
10 (b) An accusation filed against a licensee pursuant to Section
11 11503 of the Government Code alleging the procurement of a
12 license by fraud or misrepresentation is not subject to the
13 limitation provided for by subdivision (a).
14 (c) An accusation filed against a licensee pursuant to Section
15 11503 of the Government Code alleging unprofessional conduct
16 based on incompetence, gross negligence, or repeated negligent
17 acts of the licensee is not subject to the limitation provided for by
18 subdivision (a) upon proof that the licensee intentionally
19 concealed from discovery his or her incompetence, gross
20 negligence, or repeated negligent acts.
21 (d) If an alleged act or omission involves a minor, the
22 seven-year limitations period provided for by subdivision (a) *and*
23 *the 10-year limitations period provided for by subdivision (e)* shall
24 be tolled until the minor reaches the age of majority.
25 (e) An accusation filed against a licensee pursuant to Section
26 11503 of the Government Code alleging sexual misconduct shall
27 be filed within three years after the board, or a division thereof,
28 discovers the act or omission alleged as the ground for disciplinary
29 action, or within 10 years after the act or omission alleged as the
30 ground for disciplinary action occurs, whichever occurs first. This

subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

SEC. 2. Section 2960.05 of the Business and Professions Code is amended to read:

2960.05. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) *and the 10-year limitations period provided for by subdivision (e)* shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be

1 *appropriate is unavailable to the board due to an ongoing criminal*
2 *investigation.*

3 SEC. 3. *Section 3750.51 of the Business and Professions*
4 *Code is amended to read:*

5 3750.51. (a) Except as provided in subdivisions (b) ~~and (e)~~,
6 (c), *and (e)*, any accusation filed against a licensee pursuant to
7 Section 11503 of the Government Code shall be filed within three
8 years from the date the board discovers the alleged act or omission
9 that is the basis for disciplinary action, or within seven years from
10 the date the alleged act or omission that is the basis for disciplinary
11 action occurred, whichever occurs first.

12 (b) An accusation filed against a licensee pursuant to Section
13 11503 of the Government Code alleging the procurement of a
14 license by fraud or misrepresentation is not subject to the
15 limitations set forth in subdivision (a).

16 (c) The limitation provided for by subdivision (a) shall be
17 tolled for the length of time required to obtain compliance when
18 a report required to be filed by the licensee or registrant with the
19 board pursuant to Article 11 (commencing with Section 800) of
20 Chapter 1 is not filed in a timely fashion.

21 (d) If an alleged act or omission involves a minor, the
22 seven-year limitations period provided for by subdivision (a) *and*
23 *the 10-year limitations period provided for by subdivision (e)* shall
24 be tolled until the minor reaches the age of majority.

25 (e) *An accusation filed against a licensee pursuant to Section*
26 *11503 of the Government Code alleging sexual misconduct shall*
27 *be filed within three years after the board discovers the act or*
28 *omission alleged as the ground for disciplinary action, or within*
29 *10 years after the act or omission alleged as the ground for*
30 *disciplinary action occurs, whichever occurs first.*

31 (f) *The limitations period provided by subdivision (a) shall be*
32 *tolled during any period if material evidence necessary for*
33 *prosecuting or determining whether a disciplinary action would be*
34 *appropriate is unavailable to the board due to an ongoing criminal*
35 *investigation.*

36 SEC. 4. *Section 4982.05 of the Business and Professions*
37 *Code is amended to read:*

38 4982.05. (a) Except as provided in subdivisions (b), (c), and
39 (e) any accusation filed against a licensee pursuant to Section
40 11503 of the Government Code shall be filed within three years

1 from the date the board discovers the alleged act or omission that
2 is the basis for disciplinary action, or within seven years from the
3 date the alleged act or omission that is the basis for disciplinary
4 action occurred, whichever occurs first.

5 (b) An accusation filed against a licensee pursuant to Section
6 11503 of the Government Code alleging the procurement of a
7 license by fraud or misrepresentation is not subject to the
8 limitations set forth in subdivision (a).

9 (c) The limitation provided for by subdivision (a) shall be
10 tolled for the length of time required to obtain compliance when
11 a report required to be filed by the licensee or registrant with the
12 board pursuant to Article 11 (commencing with Section 800) of
13 Chapter 1 is not filed in a timely fashion.

14 (d) If an alleged act or omission involves a minor, the
15 seven-year limitations period provided for by subdivision (a) *and*
16 *the 10-year limitations period provided for by subdivision (e)* shall
17 be tolled until the minor reaches the age of majority.

18 (e) An accusation filed against a licensee pursuant to Section
19 11503 of the Government Code alleging sexual misconduct shall
20 be filed within three years after the board discovers the act or
21 omission alleged as the ground for disciplinary action, or within
22 10 years after the act or omission alleged as the grounds for
23 disciplinary action occurs, whichever occurs first. This
24 subdivision shall apply to a complaint alleging sexual misconduct
25 received by the board on and after January 1, 2002.

26 (f) *The limitations period provided by subdivision (a) shall be*
27 *tolled during any period if material evidence necessary for*
28 *prosecuting or determining whether a disciplinary action would be*
29 *appropriate is unavailable to the board due to an ongoing criminal*
30 *investigation.*

31 ~~SEC. 4.~~

32 SEC. 5. Section 4992.31 of the Business and Professions
33 Code is amended to read:

34 4992.31. (a) Except as provided in subdivisions (b), (c), and
35 (e), any accusation filed against a licensee pursuant to Section
36 11503 of the Government Code shall be filed within three years
37 from the date the board discovers the alleged act or omission that
38 is the basis for disciplinary action, or within seven years from the
39 date the alleged act or omission that is the basis for disciplinary
40 action occurred, whichever occurs first.

1 (b) An accusation filed against a licensee pursuant to Section
2 11503 of the Government Code alleging the procurement of a
3 license by fraud or misrepresentation is not subject to the
4 limitations set forth in subdivision (a).

5 (c) The limitation provided for by subdivision (a) shall be
6 tolled for the length of time required to obtain compliance when
7 a report required to be filed by the licensee or registrant with the
8 board pursuant to Article 11 (commencing with Section 800) of
9 Chapter 1 is not filed in a timely fashion.

10 (d) If an alleged act or omission involves a minor, the
11 seven-year limitations period provided for by subdivision (a) *and*
12 *the 10-year limitations period provided for by subdivision (e)* shall
13 be tolled until the minor reaches the age of majority.

14 (e) An accusation filed against a licensee pursuant to Section
15 11503 of the Government Code alleging sexual misconduct shall
16 be filed within three years after the board discovers the act or
17 omission alleged as the ground for disciplinary action, or within
18 10 years after the act or omission alleged as the ground for
19 disciplinary action occurs, whichever occurs first. This
20 subdivision shall apply to a complaint alleging sexual misconduct
21 received by the board on and after January 1, 2002.

22 (f) *The limitations period provided by subdivision (a) shall be*
23 *tolled during any period if material evidence necessary for*
24 *prosecuting or determining whether a disciplinary action would be*
25 *appropriate is unavailable to the board due to an ongoing criminal*
26 *investigation.*

